

Othon KAMARIOTIS
Serial No. 10/539,414
December 7, 2010

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

The Examiner's attention is directed to the concurrently filed IDS.

Consistent with the Examiner's request in numbered paragraph 7 on page 3 of the final office action, an amended title has been effected above.

In response to the continued rejection of claims 1-9 under 35 U.S.C. §101, claim 1 has now been amended in accordance with the Examiner's suggestion so as to moot this rejection.

The rejection of claims 1-9 and 14-21 under 35 U.S.C. §103 as allegedly being made "obvious" based on Smith '029 in view of Weiner '566 is respectfully traversed.

The Examiner admits that Smith does not anticipate even the independent claims 1 and/or 14. However, the Examiner now relies on Weiner to provide the admitted deficiency vis-à-vis independent claims 1 and 14 of, e.g., "compressing subsequent video frames in the sequence of m pixel by n pixel video frames to a further derived sequence of p pixel by q pixel frames in accordance with the received selected viewing area".

Weiner is concerned with the inability of a handset to multitask such as simultaneously downloading data and making a voice call. To address this, Weiner proposes offloading existing tasks to a session management system. Paragraph [0046] provides a good summary of Weiner's operation:

Othon KAMARIOTIS
Serial No. 10/539,414
December 7, 2010

"First the user initiates a data session on handset 10(1010). While the first data session is running, the user initiates a second data session or voice session (the session can be initiated by a calling third party). When this happens, the first data session is put on hold (1020). Then, the data session that was put on hold continues to run in session management server 20 (1030). Session management server 20 acts as handset 10 and continues to receive the data from the data source. Session management server 20 thus minimizes the load on handset 10. For example, handset 10 does not need to control all open sessions and session management server 20 stores any received data until handset 10 needs it. The user controls session management server 20 by using handset 10's control hot keys 15."

This overall Weiner teaching does not disclose the applicant's claimed combination of features. At most, the person of ordinary skill in the art would recognize that the multitasking aspect of Weiner could be applied to the Smith system to make the device more productive. However, the combination would still only relate to still images as shown in Smith.

Weiner's Table A on page 3 describes the ZOOM function (achieved by pressing hot key 15A and thus putting whatever session was in progress on "hold") as: "Enlarges/shrinks processing for a picture that was not completely downloaded." This teaches against any continued ZOOM processing for a continuing video stream of images.

Othon KAMARIOTIS
Serial No. 10/539,414
December 7, 2010

The Examiner appears to have looked beyond the main teaching of Weiner by placing huge significance on paragraph [0045] because it contains the word "video" at one place and the word "ZOOM" at another. This paragraph actually states:

"An example of the data manipulation feature, e.g. ZOOM, will be described below. The user initiates a data session by requesting a picture or video. Mobile handset typically has a display with a fixed size and resolution. However, session management server receives a picture that has a higher resolution such that it would fit on a PC screen but not on a typical handset screen. Because of the buffering capabilities of session management server 20, the server 20 keeps the session with the source open, enlarges (or shrinks) a section of the picture and sends the zoomed picture to the user."

Fairly read without undue hindsight, this teaches, at most, putting any running video session on "hold" while zooming only one frame thereof (i.e., only a single still image or "picture" as in Smith).

It appears that the Examiner has merely performed a keyword search to find the desired word ("video") and then taken a section containing the located word to form a loose argument for obviousness – without considering the context of the surrounding words. This is not something that the hypothetical person of ordinary skill in the art would (or could) do. A proper Graham v. Deere factual analysis requires the prior art to be fairly assessed without undue hindsight. KSR did not ignore the dangers of hindsight: "A factfinder should be aware, of course, of the

Othon KAMARIOTIS
Serial No. 10/539,414
December 7, 2010

distortion caused by hindsight bias and must be cautious of arguments reliant on ex post reasoning." KSR Int'l Co., v. Teleflex, Inc., 550 U.S. 398, 82 USPQ2d 1385, 1397 (2007). Although the Court rejected the "rigid preventive rules," id., that had been erected by the Federal Circuit, it did not enable the use of undue hindsight in determining obviousness.

Looking throughout the Weiner document, the ZOOM command is mentioned several times – but always only in relation to a picture (i.e., a "still" or one selected video frame). For example, see:

Paragraph I0017I: "data manipulation such as ZOOMING a picture that was not completely downloaded";

Paragraph I0028I: "Figure 4 is a block diagram showing an illustrative example of a mobile handset with separate dedicated control hot keys 15A, 15B and 15C for ZOOM, SWAP and ADD SESSION functions";

TABLE A "ZOOM – enlarges/shrinks a picture that was not completely downloaded"; and

Paragraph I0042I: "Transcoding module 80 converts pictures and/graphics to existing screen sizes and performs other functions such as ZOOM."

Paragraph I0045I: "...enlarges (or shrinks) a section of the picture and sends the zoomed picture to the user."

Regarding "video", this is only mentioned in paragraph I0002I regarding MMS, paragraph I0017I regarding sending only voice and not video, in paragraph I0045I as discussed above, and in paragraph I0051I

Othon KAMARIOTIS
Serial No. 10/539,414
December 7, 2010

regarding fast forwarding to specific points of video to implement fast forwarding.

Looking at the above, it is clear that the intention behind the Weiner zoom function is only concerned with still images. The video functionality in Weiner is only concerned with minimizing traditional processing for videos. The Examiner has placed an unjustified level of significance on the word "video" in paragraph [0045], which does not mirror what a person of ordinary skill in the art would do and, therefore, must be due to the application of unallowable hindsight analysis.

While the user can request a video as a data session and the downloading of the video can be handled by the session management system if necessary, the rest of paragraph [0045] is only concerned with a different case where a still image has been requested (or, at best, perhaps captured from a video) and the user wishes to zoom before that particular image has finished downloading. There is no explicit (or implicit) teaching of thereafter continuing to zoom streaming video frames.

Therefore, applicant respectfully submits that the person skilled in the art would not have combined Smith and Weiner to arrive at the claimed invention of independent claims 1 and/or 14. At most, such artisan would only modify the infrastructure behind the Smith system to provide the multitasking abilities of Weiner.

Given the above-discussed fundamental deficiencies of Smith/Weiner vis-à-vis independent claims 1 and 14, it is not necessary at this time to

Othon KAMARIOTIS
Serial No. 10/539,414
December 7, 2010

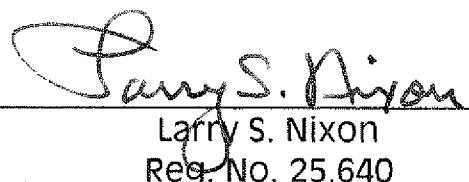
discuss further deficiencies of Smith/Weiner vis-à-vis additional aspects of the rejected claims. Suffice it to note that if a prima facie case of "obviousness" is not established for an independent claim, then by definition, it cannot have been established for any dependent claim.

Accordingly, this entire application is now believed to be in allowable condition, and a formal notice to that effect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:


Larry S. Nixon
Reg. No. 25,640

LSN:lef

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100